



1158/1637
PATENT 3
Atty. Docket: 58763.000013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE **RECEIVED**

DEC 30 2002

TECH CENTER 1600/2900

In re Patent Application of:

Daniel DUPRET et al.

Serial No.: 09/840,861

Filed: April 25, 2001

Group Art Unit: 1637

Examiner: S. Hashemi

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OFFICE OF PETITIONS

For: PROCESS FOR IN VITRO CREATION OF RECOMBINANT
POLYNUCLEOTIDE SEQUENCES BY ORIENTED LIGATION

PETITION UNDER 37 CFR 1.78(a)(3) TO ACCEPT LATE CLAIM FOR PRIORITY

Director of Patents and Trademarks
Washington, D.C. 20231

Sir:

Until today, Applicants have failed to claim the benefit of the filing dates of three earlier-filed applications. Accordingly, Applicants have also failed to amend the specification to refer to the three applications, which are:

U.S. App. No. 09/723,316, filed November 28, 2000;

PCT App. No. FR99/01973 (WO00/09679), filed August 11, 1999; and

France App No. 98/10338, filed August 12, 1998.

Pursuant to Rule 1.78(a)(3), Applicants now request acceptance of a late claim for benefit of the filing dates of these three applications. Applicants also request entry of an Amendment submitted herewith, which amends the specification to refer to these applications.

Rule 1.78(a)(3) authorizes acceptance of delayed claims for priority as long as the delay was unintentional. The delay was unintentional in this case. Although the exact circumstances are unclear, the delay clearly resulted from an oversight related to the resemblance of the above-captioned application to Applicants' related application

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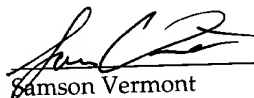
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09/723,316 (a national stage application filed November 28, 2000) and perhaps also to Applicants' application 60/285,998 (a provisional application filed April 25, 2001). The '316 and '998 applications are both entitled: "Process for Obtaining Recombined Polynucleotide Sequences In Vitro, Libraries of Sequences and Sequences Thus Obtained." As originally filed, the above-captioned application was entitled "Process for In Vitro Creation of Recombinant Polynucleotide Sequences by Oriented Ligation." However, in all of Applicants' subsequent filings for the above-captioned application (except for this filing), Applicants incorrectly used the same title as that of the '316 and '998 applications. In sum, the above-captioned application was confused with the '316 and '998 applications, neither of which must refer to earlier-filed applications as required by Rule 1.78(a)(2)(ii). (Rule 1.78(a)(2)(ii) expressly exempts national stage applications filed before November 29, 2000, and of course provisional applications are not entitled to the benefit of earlier-filed applications.) As required by Rule 1.78(a)(3)(ii), the surcharge of \$1240.00 listed in Rule 1.17(t) is attached. No additional fees are believed to be required. If any fees are required, please charge the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,
HUNTON & WILLIAMS

Date: December 24, 2002

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